THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.NO. 14088 OF 2005

2nd FEBRUARY, 2006

Between:

Dr. M.Rajya Lakshmi …Petitioner

A N D

1. The Registrar, N.T.R. University of

Health Sciences, Vijayawada, Krishna Ditrict

And another

….Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.NO. 14088 OF 2005

O R D E R :

1. This writ petition has been filed by Dr. M.Rajya Lakhmi challenging the action of the respondents in not permitting her to appear M.D.(Ay) Part II Examination scheduled to be held in February, 2006.

2. Petitioner is a student of M.D.(Ay). Duration of the Course is three years. It is divided into Part-I and Part-II. She applied for leave in the first year from 07-12-2002 to 06-03-2003. Her leave was duly sanctioned. She was permitted to appear for Part-I examination on 15-7-2003. Petitioner along with other candidate submitted application for Part II examination. Her application was forwarded to the 1st respondent on 27-5-2005. 1st respondent communicated proceeding dated 17-6-2005 to the 2nd respondent wherein the request of the petitioner for appearing Part-II examination is rejected. These proceedings are under challenge in the writ petition.

3. 1st respondent filed counter affidavit. It is stated in the counter affidavit that the leave has been sanctioned to the petitioner from 7-12-2002 to 6-3-2003 without payment of stipend and extension of her study to the extent of absence to the course. It is further stated in the counter affidavit that P.G. student has to complete three years duration of study course to the exam date including practical. But, the petitioner's study course is falling short of 75% in theory and hence the proceedings issued by the 1st respondent are justified.

4. Heard learned counsel for the petitioner and learned standing counsel appearing for the 1st respondent.

5. Learned counsel for the petitioner submits that the respondents permitted the petitioner to write Part-I examination and she successfully completed all the subjects in Part-I. She further submits that the action of the respondents in not permitting the petitioner to write Part-II examination, despite of her having full attendance, is highly unjustified.

6. A factual aspect of the respondents permitting the petitioner to write Part-I examination and her clearing all subject in Part-I examination is not controverted by the respondents. Had there being shortfall in the 1st year, the respondent authority ought not have permitted the petitioner to write Part-I examination. The very fact that the petitioner has been permitted to write Part-I examination indicates that she has fulfilled the requisite attendance in the Ist year of the course. With regard to the

attendance of second and third year, the petitioner has specifically asserted in Para-3 of the counter affidavit that she has full attendance. For better appreciation, I may refer relevant portion of the writ affidavit and it is thus:

> "*The respondents simply sanctioned the leave with a condition that the period of study to be extended to the extent of absence to the course. In fact the schedule of regulation for admission to M.D. Course clearly empowers the Vice Chancellor under Clause 16 "Attendance" to relax 10%of the attendance. In the present case the petitioner is having full attendance in the three years except these 89 days and she has passed in all subjects in the Part I course. As stated above the respondents have not imposed any condition with regard to appearance for examinations while sanctioning the leave, but very surprisingly now the petitioner is not permitted to appear Part II Final Exams. The very action of the respondents is very unjust, arbitrary and contrary to the principles of the principles of equity and natural justice".*

7. The assertion of the petitioner that she has full attendance of the second and third year has not been controverted by the respondents.

8. In that view of the matter, I find that the action of the respondents in not permitting the petitioner to write Part-II examination despite her having full attendance is wholly unjustified.

9. As per the orders in WPMP 17875 of 2005, the respondent authority has been directed to permit the petitioner to write Part-II examination. Learned counsel for the petitioner submits that the petitioner appeared for Part-II examination and only her result is to be declared.

10. In that view of the matter, the writ petition is allowed directing the respondents to publish the result of the petitioner within two weeks from today. No order as to costs.

Justice B.Seshasayana Reddy

2nd February, 2006

C.C. in two days

B/o

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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